

### REMARKS

In response to the above-identified Office Action, Applicants amend the application and seek reconsideration thereof. In this response, applicants amend Claims 18, 24 and 26-27. Accordingly, Claims 1-27 are pending.

The Patent Office, under 35 U.S.C. 121, requires the Applicants to elect a single disclosed species for each category for prosecution on the merits to which the claims shall be restricted if no generic claim is finally help to be allowable. The Patent Office acknowledges Applicants' election of human erythropoietin (hereafter "EPO") from the category of heterologous proteins.

In response to this Office Action, Applicants have elected a single disclosed species from the categories of cell type, promoter, and gene sequence. From the category of cell type, Applicants elect quail fibrosarcoma (hereafter "QT"). From the category of promoter, Applicants elect human cytomegalovirus (hereafter "HCMV MIEP"). And from the category of gene sequence, Applicants elect SH, SEQ ID NO: 5. Claims 1-27 are readable upon the elected species. No new matter has been introduced.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attachment is captioned "Version With Markings To Show Changes Made."

### CONCLUSION

In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date.

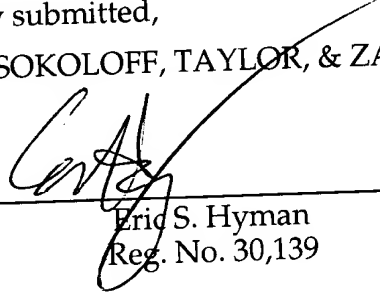
If necessary, the Commissioner is hereby authorized in this, concurrent and

future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,  
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Dated: August 1, 2001

By: \_\_\_\_\_

  
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**CERTIFICATE OF FACSIMILE TRANSMISSION:**

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on August 1, 2001.

  
Diane Martinez

August 1, 2001

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE SPECIFICATION**

Please amend the specification as follows:

At page 3, line 25, please replace [described in Fig.5] with , respectively described by SEQ ID NO: 3, SEQ ID NO: 4, SEQ ID NO: 5, and SEQ ID NO: 6.

At page 4, line 4, please replace [described in Fig.5] with , respectively described by SEQ ID NO: 3, SEQ ID NO: 4, SEQ ID NO: 5, and SEQ ID NO: 6.

At page 4, line 6, please replace [described in Fig.6] with , respectively described by SEQ ID NO: 9, SEQ ID NO: 10, and SEQ ID NO: 11.

**IN THE CLAIMS**

Please amend the claims as follows:

18. (Amended). The EPO production system of claim 14, wherein the DNA encoding EPO is selected from the group consisting of SY, JM, SH and HE, respectively described [in Fig. 5.] by SEQ ID NO: 3, SEQ ID NO: 4, SEQ ID NO: 5, and SEQ ID NO: 6.

24. (Amended): The method of claim 20, wherein the DNA encoding the EPO is selected from the group consisting of SY, JM, SH and HE, respectively described [in Fig. 5.] by SEQ ID NO: 3, SEQ ID NO: 4, SEQ ID NO: 5, and SEQ ID NO: 6.

26. (Amended) An EPO genomic sequence selected from the group consisting of SY, JM, SH and HE, respectively described [in Fig. 5.] by SEQ ID NO: 3, SEQ ID NO: 4, SEQ ID NO: 5, and SEQ ID NO: 6.

27. (Amended) An EPO amino acid sequence selected from the group consisting of JM, SH and HE, respectively described [in Fig. 6.] by SEQ ID NO: 9, SEQ ID NO: 10, and SEQ ID NO: 11.